

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IRENE ESQUIBEL,

Plaintiff,

vs.

No. CIV 09-235 LH/LFG

JOHN Q. HAMMONS HOTELS MANAGEMENT, LLC
d/b/a EMBASSY SUITES HOTEL,

Defendant.

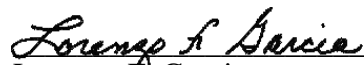
**ORDER DENYING AS MOOT DEFENDANT'S MOTION TO STRIKE
PLAINTIFF'S PROPOSED EXPERT WITNESS, DR. BARRY M. DISKANT**

THIS MATTER comes before the Court on Defendant's Motion to Strike Plaintiff's Proposed Expert Witness, Dr. Barry M. Diskant [Doc. 57]. Plaintiff initially submitted a Response [Doc. 60], opposing the Motion. Defendant thereafter filed a Reply [Doc. 65].

Dr. Diskant was designated as an expert witness in this case by Plaintiff, but he died before Defendant had an opportunity to depose him. Defendants therefore ask that Dr. Diskant be stricken as an expert and that his expert report not be used at trial.

At a status conference held on August 19, 2010, counsel for Plaintiff agreed to withdraw Dr. Diskant as an expert witness and not to use his report in this litigation. Thus, Defendant received the relief requested in the Motion, and it will be denied as moot.

IT IS THEREFORE ORDERED that, Plaintiff having agreed to all the relief sought in Defendant's Motion, the Motion to Strike Plaintiff's Proposed Expert Witness, Dr. Barry M. Diskant [Doc. 57], is denied as moot.


Lorenzo F. Garcia
United States Magistrate Judge